



## U.S. DEPARTMENT of STATE

### New Zealand

#### Country Reports on Human Rights Practices - [2003](#)

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New Zealand is a parliamentary democracy, with executive authority vested in a 20-member cabinet led by the Prime Minister. Queen Elizabeth II is Chief of State and is represented by the Governor General. The 120-member Parliament is elected in a mixed-member proportional representation system, with 7 seats reserved for members of the native Maori population. Citizens periodically choose their representatives in free and fair multiparty elections. The most recent elections were held in July 2002. The Labor Party won 52 parliamentary seats and, following the election, formed a minority coalition government with the Progressive Coalition Party, with support from the centrist United Future Party. The judiciary is independent.

The Minister of Police oversees the national police. The civilian authorities maintained effective control of the security forces. There were some complaints that individual members of the police committed human rights abuses.

The country has a market-based, mixed economy. As of December, the population was approximately 4 million. Gross Domestic Product grew 4.4 percent during the March 2002-March fiscal year. Wages kept ahead of inflation, with wages increasing 3.1 percent and inflation 1.5 percent in the first 9 months of the year. A net gain in immigration, rising housing prices, and strong consumer spending outweighed the negative effects of an appreciating exchange rate that hurt the trade sector. Government social programs offered substantial benefits to disadvantaged persons.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of addressing individual instances of abuse. There were some complaints of police abuses and of violence against women and children; societal discrimination against persons with disabilities, indigenous people, Pacific Islanders, and Asians was a problem. The Government generally respected the human rights of citizens living in its territories of Tokelau, Niue, and the Cook Islands.

#### RESPECT FOR HUMAN RIGHTS

##### Section 1 Respect for the Integrity of the Person, Including Freedom From:

###### a. Arbitrary or Unlawful Deprivation of Life

There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

The Independent Police Complaints Authority handles complaints of police abuse, ranging from use of abusive language to allegations of complicity in deaths. During the 12-month period ending June 30, the Authority investigated 10 cases involving deaths in police custody, pursuit, or while police were present. Police were exonerated in 1 of the 10 cases; the remaining cases were pending as of June 30.

In November, the State Services Commission began an inquiry into the activities of a former Canterbury prison guard unit nicknamed "the Goon Squad," which operated in 1999 and 2000 and allegedly was responsible for the death of a prisoner in transit and the use of excessive force; the investigation was ongoing at year's end.

###### b. Disappearance

There were no reports of politically motivated disappearances.

###### c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits such practices, and the Government generally respected these prohibitions in practice. There were some complaints that individual members of the police committed abuses during the year. The Independent Police Complaints Authority accepted for investigation 2,369 complaints against the police in the 12-month period ending June 30 and upheld 180. Prison conditions generally met international standards, and the Government permitted visits by human rights observers. In 2000, prison overcrowding prompted the Government to begin a major building program. A 360-bed men's facility opened in 2002. As of June 30, the male inmate population was 5,795, and total prison bed capacity was 6,121. Since 1999, the Government has been adding prison beds for women and, as of June 30, had a total capacity of 344 beds for a female inmate population of 320. In October, the Department of Corrections inaugurated a 60-bed faith-based unit at Rimutaka Prison, aimed at reducing recidivism.

In 2002, the Government began a program to reduce recidivism among female inmates by creating mother-baby feeding facilities, parenting programs, and enhanced family visitation opportunities. Babies under 6 months of age were allowed to live with their mothers in prison, where appropriate. Under the Criminal Justice Act of 1985, the Minister of Corrections also may grant early release to an inmate who has given birth while serving a determinate sentence.

Maori make up only 15 percent of the general population but were approximately 50 percent of the prison population as of June. The Government sought to reduce Maori recidivism through special programs to integrate Maori cultural values into the rehabilitation program (see Section 5); there were Maori focus units at 5 of the country's 18 prisons.

Assaults in prisons (inmate on inmate) increased nominally to approximately 2 per 1,000 for the period July 2002-June from 1.9 per 1,000 in 2001-2002. There were two serious assaults on staff by inmates in the 12-month period ending June 30. During the same period, there were 14 recorded deaths in custody, including 5 assumed suicides and 1 assumed homicide; in the latter case, inmates beat another inmate to death in Wanganui's Kaitoke prison in March. In September, an inmate committed suicide in Auckland's privately run Central Remand Prison. All new corrections officers received suicide awareness training, including tools to manage at-risk inmates effectively.

In October, nine inmates of Auckland's Paremoremo Prison Behavioral Management Regime (BMR) brought a case against the Department of Corrections, alleging that the BMR, a special unit set up in 1998 that isolates prisoners for violent behavior posing a risk to staff or other inmates, constituted torture. The prisoners alleged that they were subjected to psychological torture and inhumane conditions, including being kept in solitary confinement for up to 23 hours a day, being denied access to adequate ventilation or natural light, and not being allowed outside to exercise. The case was pending at year's end. During the year, a woman won a case against the police after she was held for deportation for 2 days in a prison cell and was denied access to sanitary products.

Male and female inmates normally were housed separately; there were 15 men's prisons and 3 women's prisons. There also was a temporary unit for female inmates at Waikeria Prison. Juvenile detainees come under the jurisdiction of Child, Youth, and Family Services (CYFS) rather than the police. Inmates under age 20 constituted approximately 6 percent of the total prison population. There were 4 special youth units under the Department of Corrections, providing a peer-based approach to rehabilitation for inmates under the age of 17 and vulnerable 17-to-19-year-olds. Despite increases in capacity, a shortage of beds for youthful offenders continued to be a problem during the year. At year's end, the 4 youth units had a combined capacity of 143 beds. CYFS facilities had 75 beds for juvenile offenders charged with less serious offenses whose cases were handled by the Youth Court, with an additional 15 beds planned for 2004; an additional 6 CYFS beds were available for juveniles sentenced to imprisonment for indictable offenses. In 2002, the Sentencing and Parole Act was amended temporarily to permit youths ages 15 and older to be remanded to adult facilities. Since the amendment was passed in 2002, 12 juveniles have been held in adult remand centers. Pretrial detainees were housed separately from convicted prisoners to the extent possible.

The country has expanded its use of home detention for minor offenders, in order to separate them from the corrupting influences of prison. Between January and September, 1,120 offenders were sentenced to home detention; of these, approximately 50 percent were European, 37 percent Maori, 9 percent Pacific Islander, and 3 percent Asian. The average length of home detention was between 16 and 19 weeks.

#### d. Arbitrary Arrest, Detention, or Exile

The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. The Police Commissioner, appointed by the Governor General, is the chief executive of the police force and reports to the Minister of Police. A Board of Commissioners, consisting of the Commissioner and two Deputy Commissioners, is responsible for high-level leadership of the police and makes decisions on police strategy, governance and performance management. Nationally, the police are organized into 12 districts, which are administered from the Office of the Police Commissioner in Wellington. There are three operational branches: General Duties, Criminal Investigation, and Traffic Safety. Allegations of corruption or impunity are referred to the Independent Police Complaints Authority, which can refer cases directly to Parliament. The police generally did not have problems with corruption and impunity.

In 2002, the High Court ruled that detained asylum seekers had the right to seek release on bail and that the Government's operating instructions regarding detention of asylum seekers violated domestic and international refugee law. However, in April, the Court of Appeal overturned the High Court decision and ruled that, under certain circumstances, the Immigration Service has the power to detain refugee status claimants on their arrival in the country (see Section 2.d.).

There is no statutory authority for imposing a sentence of exile, and the Government did not practice forced exile. The Bill of Rights guarantees every citizen the right to enter the country. e. Denial of Fair Public TrialThe law provides for an independent judiciary, and the Government generally respected this provision in practice. In October, Parliament passed a law creating a domestic Supreme Court to replace the Privy Council in London as the country's highest court of appeal. The Supreme Court, to be composed of the Chief Justice and four other judges appointed by the Governor General, was scheduled to come into being on January 1, 2004, with hearings to commence on July 1, 2004.

The Court of Appeal is the highest appellate court below the new Supreme Court; it hears appeals from the High Court, which has original jurisdiction for major crimes and important civil claims. The High Court also hears appeals from lower courts and reviews administrative actions. Remaining original jurisdiction rests with the 66 district courts. Special courts include the Employment Court, family courts, youth courts, the Maori Land Court, the Maori Appellate Court, and the Environment Court. The country's military forces have their own court system, with a Courts Martial and a Courts Martial Appeals Court. The law provides for the right to a fair trial and affords defendants the rights found in other common-law jurisdictions. An independent judiciary generally enforced these rights.

There were no reports of political prisoners.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions, and the Government generally respected these prohibitions in practice. Section 2 Respect for Civil Liberties, Including: a. Freedom of Speech and PressThe law provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press, including academic freedom.

The Government did not restrict Internet access. b. Freedom of Peaceful Assembly and AssociationThe law provides for freedom of assembly and association, and the Government generally respected these rights in practice. c. Freedom of ReligionThe law provides for freedom of religion, and the Government generally respected this right in practice.

For a more detailed discussion, see the [2003 International Religious Freedom Report](http://www.state.gov/g/drl/rls/hrrpt/2003/27783pf.htm).

#### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The law provides for these rights, and the Government generally respected them in practice. The law provides for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Government also provides protection to certain individuals who fall outside of the definition of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. Under its refugee quota, the Government resettles up to 750 UNHCR-approved refugees per year. From July 1, 2002 to July 30, the Government approved 247 applications for refugee status.

In 2002, a joint report by the Refugee Council of New Zealand and the Human Rights Foundation of Aotearoa expressed concerns about an alleged lack of human rights safeguards for detained asylum seekers; it recommended that children and other vulnerable persons not be detained pending resolution of their claims and that other asylum seekers be detained only in exceptional circumstances. The High Court subsequently ruled that asylum seekers retained the right to seek bail from detention and that the Government's operating instructions on detention of asylum seekers failed to comply with domestic and international refugee law. The Government appealed this ruling. In April, the Court of Appeal overturned the High Court's decision and ruled that, under certain circumstances, the Immigration Service has the power to detain refugee status claimants on their arrival in the country. The ruling noted that children under 17 who must be detained overnight must be detained in a residence or other premises under the control of, or approved by, the department responsible for the administration of the Children, Young Persons, and Their Families Act or in a location approved by the child's parent or guardian and an immigration officer.

During the year, Amnesty International and other human rights groups expressed concern about the continued detention of Ahmed Zaoui, a former member of the Algerian Parliament, who traveled to the country from Malaysia in December 2002 on a false passport and requested asylum. In January, his asylum application was denied by a refugee status officer acting under the 1987 Immigration Act. The Refugee Status Appeals Authority (RSAA) allowed his appeal against the officer's decision to proceed, and, in August, concluded that he met the definition of a refugee. However, the intelligence service had issued a Security Risk Certificate in March asserting that Zaoui was a threat to national security, a claim the RSAA disputed. Zaoui was detained in solitary confinement from December 2002 until October, when he was transferred to a different prison; he remained in detention at year's end awaiting a final determination on his status. In December, the High Court ruled that human rights must be considered in the Inspector General's review of the Security Risk Certificate on Zaoui and that he should be given access to a meaningful summary of the information against him.

In September, Parliament passed legislation giving judges the authority to order the continued detention of illegal immigrants in cases where the immigrants' own actions were preventing their deportation. Parliament took this action after an incident in which an Afghan man allegedly shot a woman 4 days after his release from prison, where he had been held for 6 months after

refusing to apply for a passport to enable the Government to deport him. He was released a day after the High Court ruled that an unsuccessful Iranian refugee claimant, who also refused to apply for a passport, was being detained unlawfully under the Immigration Act. The Minister of Immigration reportedly stated that the Afghan man was the only other person freed because of this High Court ruling.

### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Parliamentarians are elected under a mixed-member proportional representation system. In the most recent general elections, held in July 2002, the Labor Party won 52 of 120 parliamentary seats and formed a minority government with the Progressive Coalition Party (2 seats), with support from the centrist United Future Party (8 seats); Helen Clark remained Prime Minister. The Labor Party also had a cooperation agreement with the Green Party (9 seats). Three other political parties were represented in Parliament: The National Party (27 seats), New Zealand First (13 seats), and the ACT party (8 seats).

Women are accorded full opportunity to participate in political life. There were 35 women in the 120-seat Parliament. There were 8 women (including the Prime Minister) on the Executive Council, which comprises 27 ministers (20 within the Cabinet and 7 outside the Cabinet). The Cabinet included six women. The Prime Minister, the Attorney General, and the Chief Justice are women; the Governor General, who represents the Queen, also is a woman. There were 2 women in the 25-seat Parliament of the dependent territory of the Cook Islands, and 1 woman in the 20-seat Parliament of the dependent territory of Niue.

Seven seats in Parliament are reserved for persons of Maori ancestry. The number of Maori seats is adjusted every 5 years, based on the number of persons of Maori ancestry who register to vote on the Maori electoral roll rather than the general electoral roll. The number of Maori seats was increased from six to seven in 2001.

There were 20 Maori, 3 members of Pacific Island origin, and 1 member each of East and South Asian heritage in Parliament. The first Muslim Member of Parliament was elected in 2002. The Cabinet included at least 5 members with Maori ancestry.

### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views. The Human Rights Commission (HRC), a U.N.-accredited national human rights institution, investigates complaints of human rights violations and unlawful discrimination and acts as a conciliator. The HRC, which presents an annual report to Parliament, is funded by the Government but acts independently.

### Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

The law prohibits discrimination on the basis of race, sex, religion, disability, and national or ethnic origin, and the Government actively enforced it.

#### Women

Violence against women remained a serious problem, although convictions for assaults by males against females (all races) decreased from 2,916 for the period July 2001-June 2002 to 2,630 for the period July 2002-June. Just over half (52 percent) of those convicted were Maori, 30 percent were of European origin, and 14 percent were Pacific Islander. Assaults on a child remained level during the same period; there were 292 cases from July 2001-June 2002 compared with 294 cases from July 2000-June 2001.

Convictions for breaching protection orders issued under the provisions of the Domestic Violence Act continued to fall, declining from 2,360 in the period July 2000-June 2001 to 2,038 in the period July 2001-June 2002. Approximately 96 percent of those convicted for breaching a protection order were men. Of these, 41 percent were Maori, another 41 percent were European, and 7 percent were Pacific Islander.

According to a National Survey of Crime Victims conducted in 2001 and released in May, an estimated 32 percent of Maori, 17 percent of persons of European ancestry, and 12 percent of Pacific Islanders reported violent abuse by a heterosexual partner at least once in their lifetime; these figures included both men and women. One in four of the women included in the survey reported experiencing violent behavior from a partner at least once. According to the survey, Maori women (42 percent) were more than twice as likely as European women (20 percent) and Pacific Islander women (17 percent) to experience violence from a partner. Although Maori women and children constituted less than 10 percent of the population, approximately half the women and children who used the National Council of Independent Women's Refuges were Maori.

The law penalizes spousal rape. The Government prosecuted and convicted a small number of persons for spousal rape or unlawful sexual connection with a spouse during the year. Rape crisis groups existed throughout the country and included

centers focusing specifically on Maori and Pacific Islanders. Rape crisis groups asserted that most sexual assault cases went unreported and that only a small percentage of reported cases resulted in convictions, a fact borne out by the results of the 2001 crime victims survey. There were 3,312 recorded sexual offenses from July 2002 to June, down 6.5 percent from those recorded in the previous 12-month period.

The 1995 Domestic Violence Act broadened the definition of violence to include psychological abuse, threats, intimidation, harassment, and allowing children to witness psychological abuse. It provides for expanded intervention measures, such as the use of protection orders; education programs for men, women, and children; stronger police powers to arrest and detain offenders; improved access to legal services for women eligible for legal aid; and tougher penalties for breach of a protection order. From July 2001 through June 2002, the Family Court received 23,805 applications for protection orders under the Act. The Ministry of Justice worked with the Ministry of Social Development to launch a Family Violence Strategy and Youth Offending Strategy as part of its Crime Reduction Strategy. In 2002, 30 Youth Offending Teams began work to coordinate the work of local youth support agencies. The teams included representatives from the police, CYFS, and health and education agencies. In 2002, the Government also introduced "Te Rito," a national strategy to address all forms and degrees of domestic violence. The strategy had a 5-year implementation plan separated into 18 areas of action. These areas of action included monitoring and enforcing legal sanctions for family violence offenders, increasing public education and awareness, promoting and increasing child advocacy services, and developing specific culturally appropriate responses to prevent violence in Maori and Pacific Islander communities. The Government partially funded women's shelters, rape crisis centers, sexual abuse counseling, family violence networks, and violence prevention services. Female genital mutilation (FGM) is not traditionally practiced in the country. However, in the mid-1990s, cases of FGM were documented in the Somali, Sudanese, and Ethiopian immigrant communities. A 1996 law made it illegal to perform FGM or to remove a child from the country to carry out the procedure; violations of the law are punishable by up to 7 years in prison. The Government also funded a national FGM education program. During the year, the Government sponsored ongoing public awareness campaigns to address FGM, a child protection network, and a refugee health education program providing information and medical care to new immigrants. There were no FGM cases reported during the year. The 2003 Prostitution Reform Bill legalized prostitution. The legislation sets a minimum age of 18 to work in the industry, gives prostitutes the same workplace protections as other industries, and provides for a licensing regime for brothels. In addition, the law removes a client's ability to defend himself from prosecution based on his belief that an underage sex worker was 18 years or older, and extends prosecution to any person receiving financial gain from an act involving an underage sex worker. The law prohibits sex tourism, and citizens who commit child sex offenses overseas can be prosecuted in New Zealand courts. There were no reports of abuse or the involuntary detention of women involved in prostitution during the year; however, there were several credible reports that women smuggled into the country were forced into prostitution to repay substantial debts to traffickers. There were also reports that some foreign commercial sex workers had their passports withheld by employers until bonds were repaid (see Sections 6.c. and 6.f.). The law prohibits sexual harassment; however, it was a serious problem. In a survey commissioned in 2001 by the National Human Rights Commission, 31 percent of women and 13 percent of men reported experiencing sexual harassment. The Department of Labor reported settlement of 48 cases of sexual harassment from July 2002 to June. The HRC offered sexual harassment prevention training. The Ministry of Women's Affairs addresses issues of discrimination and gender equality, and there is a Minister of Women's Affairs in the Cabinet. While the law prohibits discrimination in employment and in rates of pay for equal or similar work, the Government acknowledged that a gender earnings gap persisted in practice. Statistics as of May indicated that women earned 76 percent of men's average total wage and 84.4 percent of men's average ordinary hourly wage. Maori and Pacific Islander women earned 73.8 and 70.3 percent, respectively, of the average hourly earnings of men. During the year, the Ministry of Women's Affairs undertook a pay equity project with the Department of Labor. Children The law provides specific safeguards for children's rights and protection. The Government demonstrated its commitment to children's rights and welfare through its well-funded systems of public education and medical care. In 2001, the Government instituted 12 weeks of government-funded, paid parental leave to care for children born after July 2002. The office of the Commissioner for Children played a key role in monitoring violence and abuse against children.

During the year, the Government agreed in principle to remove its reservation to Article 37(c) of the U.N. Convention on the Rights of the Child (concerning acceptance of the definition of a "child" as a person up to age 18), for implementation following completion of additional youth units for juvenile offenders (see Section 1.c.) and development of a "test of best interests" for determining placement in such units.

The law provides for compulsory, free, and universal education through age 16, and the Government effectively enforced the law. The Government provided free health care to all children under age 5. Child abuse continued to gain significant attention. According to a UNICEF report released in September, there were 1.2 deaths from physical abuse per 100,000 children during the period 1994-1998. From July 2001 to June 2002, 6,892 children were assessed as abused or neglected. This resulted in a child abuse rate of 6.9 children for every 1,000 children under 17, a slight increase from the July 2000-June 2001 statistic of 6.7 children per 1,000. During the same period, there were approximately 2,026 reported cases of physical abuse, 1,262 cases of sexual abuse, and 2,121 cases of severe emotional abuse of children. Ten Maori children per 1,000 were reported abused or neglected, compared with 6 per 1,000 for non-Maori children. In 2000, the Government instituted an expanded program of information sharing between the courts and health and child protection agencies to identify children at risk of abuse. During the 12-month period ending June 30, applications to Family Court requested protection for 31,781 children. Of these cases, 80 percent required further action from the CYFS. A 2002 study published by the Ministry of Justice concluded, on the basis of anecdotal evidence, that commercial sexual exploitation was a growing problem throughout the country. A 2001 study by the nongovernmental organization (NGO) End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes New Zealand (ECPAT NZ) found 140 children between the ages of 11 and 16 who were described as having sex for money and goods. In 2001, the Government published a National Plan of Action against the Commercial Exploitation of Children developed in concert with NGOs. The Prostitution Reform Act made it illegal to have sex with an individual under 18 years old (See Section 6.f.). Assistance programs for victims of debt bondage were implemented through the HRC, the Mayor of Auckland, the police, the Immigration Service, and NGOs, including ECPAT NZ, the Prostitutes Collective, and Shakti Asian Women's Refuge. Other initiatives included distribution of pamphlets about the unacceptability of commercial sexual exploitation of children and peer

counseling programs.

In July, a man received the then-maximum allowable prison sentence of 26 months for trading objectionable pornographic material. In August, a man was sentenced to 20 months in prison on 24 Internet pornography charges related to children. Both men were apprehended by the Department of Internal Affairs' Censorship Compliance Unit, which was established in 1996 to police Internet child pornography. In 1995, the Government introduced extraterritorial jurisdiction over child sex offenses committed by the country's citizens abroad.

In the mid-1990s, there were a small number of documented FGM cases, most involving young girls, in Somali, Sudanese, and Ethiopian immigrant communities. However, there were no documented cases of FGM during the year (see Section 5, Women). Incidents of trafficking in children for sexual purposes have been documented; however, there were no such cases during the year. The Government worked with the NGO ECPAT NZ to combat trafficking in children (see Section 6.f.). Persons with DisabilitiesThe law prohibits discrimination against persons with disabilities in employment, education, access to places and facilities, and the provision of goods, services, and accommodation. Compliance with access laws varied. The Government is prohibited from discrimination on the basis of disability, mental or physical, unless such discrimination can be "demonstrably justified in a free, democratic society." The Human Rights Commission reported that during the year, it continued to receive more complaints of discrimination based on disability than for any other type of discrimination. The International Labor Organization (ILO) has criticized the Government for not collecting adequate data regarding the employment of persons with disabilities. Both the Human Rights Commission and the Mental Health Commission continued to address mental health issues in their antidiscrimination efforts during the year. Indigenous PeopleApproximately 15 percent of the population claim at least one ancestor from the country's indigenous Maori or Moriori minorities. The law prohibits discrimination against the indigenous population; however, the Government's May 2000 Closing the Gaps report noted a continuing pattern of disproportionate numbers of Maori on unemployment and welfare rolls, in prison, among school dropouts, in infant mortality statistics, and among single-parent households. For example, the official Maori unemployment rate remained more than twice the national average of 4.4 percent, despite a Household Labor Force Survey released in November that showed that the Maori unemployment rate had dropped from an average of 17.9 percent in 1999 to 10.6 percent in first 9 months of the year. Maori officials continued to express concern over the Government's strategy of addressing socioeconomic rather than race-based disparities.

Maori inmates continued to constitute more than half the prison population. The Government addressed the problem of recidivism among Maori through Maori focus units and special cultural assessments of Maori offenders. Five Maori focus units, involving approximately 300 inmates, integrated Maori values into the prison rehabilitation program. A special program for Maori sex offenders, Kia Marama, halved the rate of recidivism among participants. Government policy recognizes a special role for indigenous people and their traditional values and customs, including cultural and environmental issues impacting commercial development. The Ministry of Maori Development, in cooperation with several Maori NGOs, sought to improve the status of indigenous people. A special tribunal continued to hear Maori tribal claims to land and other natural resources stemming from the 1840 Treaty of Waitangi.

During the year, the issue of ownership of the foreshore (defined as the land between high and low tide) and the seabed was the focus of protests both by Maori groups asserting customary title to the land, and non-Maori groups opposing such claims. In December, the Government introduced legislation to clarify the issue of equal access to the foreshore for all citizens.

#### National/Racial/Ethnic Minorities

Pacific Islanders, who make up 6.5 percent of the population, experienced societal discrimination similar to that experienced by Maori. Pacific Islanders also were overrepresented in the prison system, accounting for approximately 10 percent of inmates. The Department of Corrections continued its strategy to reduce the crime rate among Pacific Islanders through the use of culturally based techniques. Asians, who make up less than 5 percent of the population, also reported discrimination.

The 2001 Crime Victims Survey showed that Pacific Islanders were as likely as Europeans to be victims of crime in 2000, in contrast with previous research that stated they were a higher risk group. However, Pacific Islanders were more likely than the other groups to be subjected to repeated victimization, particularly violent victimization. Overall, Pacific Islanders experienced less victimization than Maori.

#### Section 6 Worker Rights

##### a. The Right of Association

The law provides workers the right to establish and join organizations of their own choosing, and workers exercised this right in practice. The principal labor organization is the New Zealand Council of Trade Unions, a federation that includes unions representing various trades and locations. In 2000, the Council of Trade Unions merged with the second-largest labor federation, the New Zealand Trade Union Federation. As a result, nearly all unionized workers are members of the Council of Trade Unions. A few small, independent labor unions also exist. Unions represented approximately 21 percent of all wage earners. Labor organization is rudimentary in the territory of Tokelau (population 1,500) and in the Freely Associated State of Niue (population 1,700). In the more developed Associated State of the Cook Islands (population 19,000), most workers in the public sector, the major employer, belonged to the Cook Islands Workers' Association, an independent local union. Industrial relations in the Cook Islands are governed by a simplified version of national legislation. The law protects unions from governmental interference, suspension, and dissolution. The law prohibits uniformed members of the armed forces from organizing unions and bargaining collectively. Under the law, "sworn police officers" (which includes all uniformed and

plainclothes police but excludes clerical and support staff) are barred from striking or taking any form of industrial action. However, police have freedom of association and the right to organize and to bargain collectively. The law prohibits anti-union discrimination against members and organizers. Unions may affiliate internationally. The New Zealand Council of Trade Unions is affiliated with the International Confederation of Free Trade Unions.

b. The Right to Organize and Bargain Collectively The law provides for the right of workers to organize and contract collectively, and workers exercised this right in practice.

Unions influenced legislation and government policy. Some unions were affiliated with the Labor Party; others operated independently of political parties; all were free to support parties whose policies they favored. In 2000, the Government significantly changed the law governing industrial relations, repealing the Employment Contracts Act of 1991 and replacing it with the Employment Relations Act (ERA). The ERA promotes collective bargaining, strengthens unions, and requires that parties to an employment agreement bargain in good faith to achieve either a collective or individual employment agreement. The act also promotes mediation and attempts to reduce the need for judicial intervention. Under the ERA, employment relationships are based on contracts. Individual employees and employers may choose to conduct negotiations for employment contracts on their own behalf or may authorize any other person or organization to do so on their behalf. Although choosing a union is entirely voluntary, unions remained the most common agents used by workers to negotiate with employers. Employers must recognize a representative authorized by an employee or employees. During the year, the Government conducted a technical review of ERA legislation, prompted by the June ratification by the Parliament of ILO Convention 98 on the right to organize and bargain collectively. The Government does not control mediation and arbitration procedures. The ERA strongly encourages mediation and requires that the majority of employment disputes first proceed through mediation. It also established the Employment Relations Authority as an investigative body to establish the facts of an employment relationship dispute and to make a determination according to the merits of the case. There is also an Employment Court with exclusive jurisdiction over employment matters. Appeals from the Employment Court to the Court of Appeal are possible. Firing an employee for union activities is grounds for a finding of unjustified dismissal and may result in reinstatement and financial compensation. Other than police and armed forces personnel, public services employees, including essential service employees such as prison workers, may organize and strike. Disputes that cannot be settled by negotiation between the Police Association and management are subject to compulsory, final-offer arbitration. Sympathy strikes, secondary strikes, and strikes over social or political causes are illegal. Unions often exercised the right to strike. Significant limitations on the right to strike were eliminated when the ERA replaced the Employment Contracts Act; unions no longer are limited to strikes related to the negotiation of a collective contract and may strike in pursuit of multiemployer contracts across an entire economic sector. During the 12 months that ended in March, there were 40 work stoppages, involving 17,624 workers and the loss of approximately \$2.31 million (\$NZ3.6 million) in wages and salaries. This represented a 13 percent decrease in the number of work stoppages compared with the previous reporting period (July 2001-June 2002), involving 28 percent fewer workers and a 54 percent decrease in lost wages and salaries. There are no export processing zones. c. Prohibition of Forced or Bonded Labor The law prohibits forced or bonded labor, including by children. Inspection and legal penalties ensured respect for provisions against forced labor. There were no reports of the involuntary detention of women involved in prostitution; however, there were reports that some foreign commercial sex workers had their passports held by employers until bonds were repaid. In May, a Thai woman settled a civil court case for the money that she had paid traffickers. The woman believed that she was coming to the country to work in a restaurant but was forced into prostitution.

d. Status of Child Labor Practices and Minimum Age for Employment

Department of Labor inspectors effectively enforced a ban on the employment of children under the age of 15 in manufacturing, mining, and forestry. Children under the age of 16 may not work between the hours of 10 p.m. and 6 a.m. By law, children enrolled in school may not be employed, even outside school hours, if such employment would interfere with their education.

e. Acceptable Conditions of Work

A 40-hour workweek is traditional. There are legal limits regarding hours worked; for example, professional drivers must have a 24-hour rest period after an 11-hour day. There is premium pay for overtime work. The law does not provide specifically for a 24-hour rest period weekly; however, management and labor have accepted the practice, and it was the norm. The law provides for a minimum 3-week annual paid vacation and 11 paid public holidays. In 2000, the Government mandated an hourly minimum wage of approximately \$4.95 (\$NZ7.70) and lowered the minimum age of eligibility for this wage to cover workers ages 18 to 20. In March, the minimum wage was increased to approximately \$5.46 (\$NZ8.50). Combined with other regularly provided entitlements and welfare benefits for low-income earners, this wage was generally adequate to provide a decent standard of living for a worker and family. There is a separate youth minimum wage for younger workers (ages 16 to 17), which was increased in March to approximately \$4.37 (\$NZ6.80). Legislation passed in June allows trainees to receive a minimum training wage, which is equivalent to the youth minimum wage. A majority of the work force earned more than the minimum wage. Extensive laws and regulations govern health and safety issues. Under these rules, employers are obliged to provide a safe and healthy work environment, and employees are responsible for their own safety and health, as well as ensuring that their actions do not harm others. As a result of union criticism, the law was reviewed by Parliament, and amendments to the ERA were introduced in December; however, they had not been enacted by year's end.

Workers have the legal right to strike over health and safety issues. Unions and members of the general public may file safety complaints on behalf of workers. Department of Labor inspectors effectively enforced safety and health rules, and they had the power to shut down equipment if necessary. The Department of Labor standard is to investigate reports of unsafe or unhealthy working conditions within 24 hours of notification. Inspectors can issue notices of deficiencies and bring prosecutorial action to

enforce workplace safety. Workers have the right to withdraw from a dangerous work situation without jeopardy to continued employment. Labor laws were applied to foreign workers and citizens in the same manner. f. Trafficking in Persons The country has been a destination for internationally trafficked persons and, to a lesser extent, a transit point for persons being trafficked to the United States and other countries. In 2002, the Government passed legislation that criminalizes alien smuggling and trafficking in persons, with penalties of up to 20 years in prison and fines of up to \$321,337 (\$NZ 500,000). Laws against child sexual exploitation and slavery carry penalties of up to 14 years in prison. Trafficking in women and children (particularly from Thailand) to work in the sex industry has been a problem. Since the Government imposed a visa requirement for Thai nationals in 2001 in an effort to reduce the trafficking of women, no new cases of internationally trafficked persons have been brought to the attention of the authorities. However, there were continuing reports that undocumented Thai and Chinese were forced to work in the sex industry to repay debts to smugglers. There were concerns that the passage of the Prostitution Reform Bill (See Section 5) would increase trafficking to the country, specifically among Southeast Asian women who arrive believing they will be enrolled in an English-language school.

Shakti Migrant Services Trust, an antitrafficking NGO, provided reports of prostitution and abuse resulting from the immigration of Indian women for arranged marriages. The Trust reported that some of these women were forced to work long hours, treated as virtual slaves, and in some cases forced into prostitution.

In July, an Australian man was the first person charged under the new Immigration Amendment Act of 2002 with attempting to help a foreigner enter the country illegally for the purpose of prostitution. The Government worked with the NGO ECPAT NZ to combat trafficking in children. There were no documented incidents of trafficking in children for sexual purposes during the year. The Government provided funding for the Human Rights Commission to coordinate antitrafficking activities, for health services for trafficked persons, and for the New Zealand Prostitutes Collective to provide peer counseling and assistance to trafficked persons. The major urban areas have support networks for trafficked individuals, including mechanisms to provide safehouses and repatriation. Antitrafficking campaigns included literature on how to escape from prostitution, translated into the Thai language and distributed throughout the commercial sex worker areas in Auckland.